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EXAMINER

EICKHOLT, EUGENE H

ART UNIT	PAPER NUMBER
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2854

DATE MAILED: 07/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/954,447

Applicant(s)

ELLIS, ROBERT K.

Examiner

Eugene H Eickholt

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 May 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-17, 20-28 and 30-35 is/are rejected.
- 7) ☒ Claim(s) 6, 18, 19 and 29 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 10-12, 14-16, 20, 24-26 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Wakat (6,022,588).

Column 11, lines 43-55 teach substrates being painted on a base coat is applied as set forth in column 5, lines 43-51, a texture coat is then applied as set forth in column 5, lines 52-61 which reads on claim 2. This coating is capable of sustaining a relief feature formed by pressing a plastic sheet unto the art texture coating. Removal of the sheet forms a variegated, somewhat rough topography to the textured coating as set forth in the paragraph bridging columns 5-6. A two color coat of paint is applied as the next step which reads on step of applying a coloring agent directly to the material (the texurized coat being the material). Column 14 lines 47-49 refer to colorants or pigments. Column 6, lines 11-32 teach pigments are in the paint.

Particular attention is directed to the teaching set forth in column 5, lines 52-61, with line 57 teaching an "emulsion" and a thickening agent, i.e., a viscosity control agent. Lines 60-61 teach manual application using brushes or rollers as recited in claims 5, 12, 14 and 16. Column 6, line 22, teaches roller application of the two paint final coating as recited in claim 20.

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Regarding claim 11, column 5, lines 58-59 teach the texture coat includes "calcium carbonate".

The primer coat of claim 25 is taught by the column 5, lines 42-58 step of applying the base coat.

The texture coat as previously set forth reads on the material defined by claim 30.

The claim 3 step of curing the material is taught by the step of "drying" set forth in column 7, lines 36-40.

The claim 26 finishing coat step is taught at column 7, lines 45-47.

Regarding claim 10, note the teaching of "fillers" at column 14, lines 64-66.

Regarding the automation step of claim 15, note the "automation" teaching of column 14, lines 4-6.

Regarding claim 24, note the teaching of column 6, line 14. The use of "latex" as a paint teaches use of a water-soluble paint.

Claims 1, 2, 3, 5, 7, 9-10, 14-16, 20-24, 26-27, 30-32 and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Kuwabara et al.

The substrate provided is leather. The material sustaining a relief feature is the multi-layered soluble resin and particle aggregate referred to in column 4, lines 50-65. Note the description at col. 4, lines 48-55 of images produced in detail along lines drawn and the representation of peculiar touches. The resin materials are listed at column 5, lines 49-60 and in particular has viscosity properties as stated at col. 5, lines 47-48. The particle aggregate

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comprises an emulsion as set forth at col. 7, lines 1-2. A viscosity control agent is optionally used as set forth in col. 7, line 53; identified as "viscosity modifiers". Regarding claim 7 note the starch teaching of col. 5, line 51. Ink using either an ink jet, or screen printing or a paint brush is applied directly to the ink coloring surface as set forth in column 4, lines 9-15. Manual application of ink is caused by a paint brush thus anticipating claim 20. Claim 21 is anticipated by the use of an inkjet. Use of a computer to control signals to the ink jet and the programming of the computer stated at col. 18, lines 42-47 reads on the broad automation step of claim 21. The claim 2 texturing of the material (the coloring layer) is taught by the multi-layered soluble resin and particle buildup of col. 4, lines 50-68.

The curing of claim 3 is taught by the drying steps set forth in col. 15, lines 21-28. Regarding claims 5 and 9, note the teaching at col. 7, lines 23-31 of the use of "a vinyl acetate resin". Vinyl acetate is the raw material for polyvinyl resins. Regarding claim 10, note the use of the additives listed at col. 7, lines 50-54.

Regarding claims 14-16 and 20-22, the use of a paint brush reads on manual step of claims 14 and 16 and 20. The use of a computer controlled ink jet and synchronized leather feed reads on the automation step of claims 15 and 21-22. Note col. 11, line 24 teaches automation. Regarding claim 23, note the use of dyes and pigments taught at in the paragraph bridging columns 7-8 and which also discloses the use of a water based ink in regards claim 24.

Regarding claim 26, note the finishing step of coating taught at col. 14, lines 31-32. The limitations set forth in claims 27, 30-32 and 34 have all been previously addressed.

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuwabara et al in view of Malhotra et al.

Kuwabara et al differs from claims 8 and 33 in broadly teaching at column 5, line 53 the use of hydroxy cellulose for soluble resin material. Malhotra et al at column 16 teaches use of several "cold-water-soluble hydrophilic binder polymers including the claim 8 recited "hydroxyethyl" cellulose" at lines 37-38. It would have been obvious to follow this Malhotra et al teaching and select such a hydroxy cellulose for the water soluble resin material of Kuwabara et al as this performs the essentially same function and is an art well known hydrophilic binder polymer capable of accepting the jet printing ink used by Kuwabara et al.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kuwabara et al.

Kuwabara et al addresses how the soluble resin layer is applied using a spraying gun in column 16, lines 21-24. At column 5, lines 49-60, other methods are also disclosed. It would have been obvious to broadly automate such resin application devices to improve efficiency of the application and repeat quality of the coatings.

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Claims 17 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuwabara et al.

Kuwabara et al teaches screen printing to image (texture) the leather coloring layer at column 5, line 59. It would have been a matter of design choice among the two well known in the art of printing screens, one of polymer mesh (silk screen) and the other of metal mesh as the specific type of screen printing employed by Kuwabara et al.

Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kuwabara et al in view of Malhotra et al.

Kuwabara et al in col. 7, lines 50-55 teaches "conventional" additives may be added to the soluble resin. The two claim 35 additives are taught by Malhotra et al at column 24, line 55 and 59. It would have been obvious to use calcium carbonate and/or titanium dioxide as filler in the soluble resin of Kuwabara et al as fillers are common additives to surfaces receiving ink jet printing.

Claims 5 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuwabara et al in view of Hawley's Condensed Chemical Dictionary. Eleventh Edition, page 1222.

As previously pointed out Kuwabara et al teaches use of vinyl acetate resin. The dictionary page cited states vinyl acetate is the raw material of polyvinyl resins and goes on to state "Use: Polyvinyl acetate". One of ordinary skill in the art would be expected to know the common types of vinyl acetate resins include dictionary accepted polyvinyl acetate resins.

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Claims 6, 18-19 and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A shortened statutory period of 3 months is set to respond.

Eickholt/ek

06/25/03

Any inquiry concerning the specifics of this communication should be directed to Examiner Eickholt, who can be reached Tuesday through Thursday. Inquiries of a general nature should be directed to the TC2800 receptionist.

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